



# **Montana Fish, Wildlife & Parks**

Region 1  
490 N. Meridian Road  
Kalispell, MT 59901

**DECISION NOTICE  
and  
Finding of No Significant Impact  
for the  
WHITEFISH LAKE WATERSHED PROJECT**

**July 24, 2017**

## **Description of the Proposed Project**

The Whitefish Lake Watershed Project is a proposal by Montana Fish, Wildlife & Parks (FWP) and The Trust for Public Land (TPL) to conserve twenty-one sections (approximately 13,398 acres) of Weyerhaeuser property located approximately nine miles northwest of Whitefish, Montana. Under this proposal, TPL would acquire the entire Project area from Weyerhaeuser by the end of September 2017. FWP would purchase the Lazy Creek Conservation Easement (CE) on sixteen sections (~10,218 acres). The Montana Department of Natural Resources and Conservation (DNRC) would purchase the underlying fee ownership from TPL once the conservation easement is in place.

The Bonneville Power Administration (BPA) would provide funding for purchase of the other five sections (~3,180 acres) in the Swift Creek drainage. In exchange for their funding, BPA would retain a perpetual conservation easement on the five sections (Swift Creek Conservation Easement) to conserve important native fish habitat within the Swift Creek watershed. Ownership of the Swift Creek sections would be transferred to either DNRC or FWP, depending on which alternative is selected. The BPA portion of this proposed Project would serve as partial mitigation for fisheries losses resulting from construction of Hungry Horse Dam.

BPA would provide the appraised value, approximately \$11.5 million (M), for purchase of the five sections (~3,180 acres) in the Swift Creek drainage. The remaining sixteen sections (~10,218 acres) would be placed under the proposed Lazy Creek Conservation Easement in two phases using a combination of U.S. Forest Service Forest Legacy Program (FLP) funding, U.S. Fish and Wildlife Service Habitat Conservation Plan (HCP) Land Acquisition Grant funding, hunter license dollars through FWP's Habitat Montana Program, and private funds provided by TPL. FWP and TPL have secured \$7M in FLP funding and \$2M in HCP funding for Phase 1 (~7,018 acres) and would anticipate closing on this phase by the end of 2017. We have requested the same amount from each program for Phase 2 of the Project and would add up to five sections of land (~3,200 acres) to the Lazy Creek Conservation Easement if and when funding becomes available. One million in Habitat Montana funding has been committed for each of the two Lazy Creek Conservation Easement phases. The balance of funds needed for the Project would come from TPL.

## **Montana Environmental Policy Act (MEPA) Process and Public Involvement**

FWP released a draft environmental assessment (EA) for public review on June 13, 2017, and asked for public comment through July 12, 2017. FWP held a public hearing in Whitefish on

June 21, 2017, at 6:30 p.m. FWP ran legal ads describing the proposed Project, the availability of the draft EA, and the public hearing information in three local newspapers. The draft EA was posted on FWP's official website and was also available at the Region One headquarters in Kalispell and online for people with internet access or through internet service at public libraries.

The EA evaluated the potential impacts of the following alternatives:

1. Preferred Alternative: Conservation easement only on a portion of the Project – FWP would hold the Lazy Creek Conservation Easement on up to 10,218 acres (sixteen sections) with the potential for DNRC ownership of the underlying fee (subject to DNRC's review and approval process). FWP would hold no interest in the remainder of the Project because DNRC would take ownership of the remaining 3,180 acres (five sections) subject to a BPA conservation easement as agreed to between DNRC and BPA (subject to DNRC's review and approval process).
2. Secondary Alternative: Combination of conservation easement and fee ownership – FWP would hold the Lazy Creek Conservation Easement on up to 10,218 acres (sixteen sections) as described in the Preferred Alternative. In addition, FWP would assume ownership of and management responsibility for the remaining 3,180 acres (five sections) subject to a BPA conservation easement as agreed to between FWP and BPA.
3. No Action Alternative: TPL would not purchase the property from Weyerhaeuser, and FWP would hold no interest in the property.

### **Summary of Public Comment**

FWP received 34 public comments with all in favor of conserving this property. Four specified a preference for the Preferred Alternative and two supported the Secondary Alternative, with one of those wanting FWP or the USFS to own the entire property. The following issues were raised by those commenting:

1. Three different comments raised the desire and need for FWP to pursue an additional project, which would conserve the three adjacent Weyerhaeuser parcels that are not part of the current project.

**FWP Response:** *Initially, FWP and TPL made all twenty-four sections part of the Project, but were not able to find additional funding (through federal or private means) to conserve all twenty-four sections, so the project was restructured and the southern-most three sections were removed from the Project area. While we would support a conservation outcome for the remaining three sections, we know of no potential funding sources that could support such an endeavor.*

2. One comment supported FWP or the USFS owning the entire property, but not DNRC ownership because DNRC mandates would not allow for adequate protection of public recreation and water quality.

**FWP Response:** *The EA did not present an alternative that would allow for FWP or the USFS to own the entire property. The conservation easements, both the FWP-held*

*easement on the Lazy Creek portion of the property and the BPA-held easement on the Swift Creek portion, have terms that encourage public recreation on the property. The Lazy Creek conservation easement secures the right of general public access for the purpose of noncommercial recreation, including but not limited to hunting, fishing, trapping, wildlife viewing, and camping. The Swift Creek conservation easement requires the landowner to provide reasonable public access to the property for undeveloped and dispersed recreational uses, such as hiking, bird watching, hunting, and fishing, unless both the landowner and BPA determine that such access could materially impair one or more of the Conservation Values outlined in the conservation easement. Both conservation easements also include terms restricting activities that would harm water quality on the property.*

3. One comment stated that only DNRC should own these properties and that FWP has no business owning or managing timberlands in Montana. The comment also stated that DNRC ownership will provide revenue for the school trust funds, recreational opportunities, and produce sawlogs and wood fiber to area mills, supporting jobs for northwest Montana.

**FWP Response:** *Under either alternative, DNRC would own and manage at least three-quarters of the Project area. The BPA-held conservation easement would restrict the amount of timber that can be harvested from the five sections within the Swift Creek drainage, whether the property is under DNRC or FWP ownership. BPA funding requires that the land be managed to protect and maintain its fish and wildlife habitat and prevents any and all uses that are inconsistent with that primary purpose. However, it is likely that DNRC would be able to do more active management of the property, especially in the near future, because as described on page 13 of the EA, DNRC manages the surrounding Stillwater State Forest and has staff and equipment stationed immediately adjacent to the property at the Stillwater Unit office.*

4. One comment suggested that a component of the Project and associated federal funding should incorporate recreation management on behalf of the public's right of access at the Upper Whitefish Road on Hwy 93 – both on the CE lands and the adjacent DNRC Stillwater State Forest. The comment suggested that this point of access would provide quality recreation that does not result in impacts to wildlife, habitat fragmentation, or the introduction of nonnative species or predators. The comment also stated that a Special Recreational Use License could be offered by DNRC to local community groups in order to manage recreational access on behalf of the public.

**FWP Response:** *The public funding sources being proposed for this Project encourage the inclusion of public recreational opportunities, but do not require the incorporation of well designed, managed recreational amenities. The FWP-held conservation easement would allow, but would not require, DNRC to issue a Special Recreational Use License for improved recreational amenities on the Upper Whitefish Road or elsewhere on the property. We agree that managed recreational access, including improved amenities at an appropriate point of access, could be designed to avoid impacts to wildlife and other natural resources, but we disagree that simply providing such amenities would automatically avoid wildlife impacts, habitat fragmentation, or introduction of nonnative species. It would be up to the future landowner to decide how to manage access,*

*including whether or not to issue special use permits for specific types of recreational opportunities.*

5. Two comments raised concern that a DNRC gate was blocking public access on the Upper Whitefish Road.

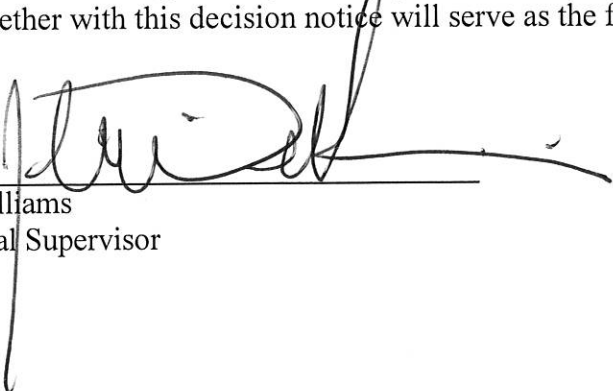
**FWP Response:** *FWP contacted DNRC and was able ascertain that a private vehicle intending to travel to Red Meadow Lake had accidentally turned off of the Upper Whitefish Road and had encountered a side road that was gated to public use due to a current logging operation. At this time, the Upper Whitefish Road remains open to all public travel.*

### **FWP Recommended Alternative and Final Decision Recommendation**

In reviewing all the public comment and other relevant information, and evaluating the environmental effects, I recommend that the Fish and Wildlife Commission approve the purchase of a conservation easement on the Lazy Creek portion of the Whitefish Lake Watershed Project area as proposed in the Preferred Alternative.

Through the public review process described above, the public did not identify any significant issues, and support for the Project was unanimous. FWP found no significant impacts on the human or physical environments associated with this proposal; therefore, the EA is the appropriate level of analysis and an environmental impact statement is not required.

Noting and including the responses to public comments, the draft EA will become the final EA and together with this decision notice will serve as the final documents for this proposal.



\_\_\_\_\_  
Jim Williams  
Regional Supervisor

\_\_\_\_\_  
July 24, 2017

\_\_\_\_\_  
Date